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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/392,841	09/09/1999	SCOTT J. BROUSSARD	AT9-99-319	1862

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EXAMINER

QURESHI, SHABANA

ART UNIT                      PAPER NUMBER

2155

6

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

<b>Application No.</b> 09/392,841	<b>Applicant(s)</b> BROUSSARD, SCOTT J.	
<b>Examiner</b> Shabana Qureshi	<b>Art Unit</b> 2155	

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 7/19/02.
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-16 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-16 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.
  - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.
  - If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some \* c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other:

**DETAILED ACTION*****Response to Arguments***

Applicant's arguments filed have been fully considered but they are not persuasive. It is the duty of the examiner to treat the claims as broadly as possible in order to issue a merited patent. Trueblood teaches a method of audio and graphic data being sent to a host workstation (column 3, lines 43-47). Audio server and display server may be broadly interpreted. The web browser of Wong is interpreted to be a display and audio server.

Applicant's argument regarding the absence of an audio environment variable has been fully considered by <sup>the examiner and found to be</sup> not persuasive. X-Windows provides a display environment variable that allows a client to specify the display to which data or commands are being sent. It would be inherent to a system employing audio in X-Windows to have an audio environment variable that allows a client to specify the audio device to which data or commands are being sent. Without the audio environment variable, Trueblood's system would not be able to operate.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., X-Windows support of platform-independent audio data streams) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so

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long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The motivation to combine the feature of platform independence of Wong into the teachings of Trueblood is that it will allow the system of Trueblood to be used on a universal platform.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trueblood (U.S. 5,748,499) in view of Wong et al. (US 6,216,152).

Trueblood teaches a method for a distributed audio server (column 2, lines 43-49), the method comprising the computer implemented steps of: generating audio data and graphic data (abstract); sending the graphic data to a display server on a client machine specified by a display environment variable (abstract); and sending the audio data to an audio server on the client machine specified by an audio environment variable or by an audio command line parameter (abstract). Trueblood fails to teach that the application is platform independent. Wong et al. teach a media plug-in application that is platform independent (abstract; column 5, lines 30-51). It

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would be obvious to one of ordinary skill in the art at the time the invention was made to employ Wong's teachings within the system of Trueblood because using a platform independent application would allow it to run on various types of machines.

As per claims 2 and 15, Trueblood fails to teach that the application is implemented in the Java programming language. Wong et al. teaches that the platform-independent application and the platform-independent audio server are implemented in the Java programming language (column 5, lines 40-45). It would be obvious to one of ordinary skill in the art at the time the invention was made to employ Wong's teachings within the system of Trueblood because using a Java is a platform independent language that would allow the application to run on various types of machines.

As per claims 3 and 16, Trueblood teaches that the display server of claims 1 and 14 is an X Windows display server (column 2, lines 5-15).

As per claims 4 and 9, Trueblood teaches a method for a distributed audio server (column 2, lines 43-49), the method comprising the computer implemented steps of generating audio data (abstract). Trueblood fails to teach that the audio server is implemented as a platform-independent application. Wong et al. teach a media plug-in application that is platform independent (abstract; column 5, lines 30-51). It would be obvious to one of ordinary skill in the art at the time the invention was made to employ Wong's teachings within the system of Trueblood because using a platform independent application would allow it to run on various types of machines.

The method of determining whether an audio environment variable or an audio command line parameter is defined and if an audio environment variable or an audio command line is

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defined, sending the audio data to a platform-independent audio server on a client machine specified by the audio environment variable or by the audio command line parameter is inherent to Trueblood's invention (column 4, lines 55-67), the method is more further disclosed by Wong et al. (column 7, lines 1-37). Because Wong et al. refer to the method being applied to media, the method inherently includes audio data and graphic data. This provides the basis on which claims 5 and 10 are rejected.

As per claims 6 and 11, Wong et al. further teaches that the platform-independent application and the platform-independent audio server of claims 4 and 9 are implemented in the Java programming language (column 5, lines 40-45).

As per claims 7 and 12, Trueblood teaches that the display server of claims 5 and 10 is an X Windows display server (column 2, lines 5-15).

As per claims 8 and 13, Trueblood teaches that the graphic data and the audio data of claims 4 and 9 are synchronized (abstract).

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shabana Qureshi whose telephone number is (703) 308-6118. The examiner can normally be reached on Monday - Friday, 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (703) 305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

SQ  
September 25, 2002

  
AYAZ SHEIKH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100